IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.489 OF 2005
IN
COMPANY APPLICATIONNO.488 OF 2005
IN
COMPANY PETITION NO.345 OF 2001

In the matter of Sections 391, 392 and 394 of the Companies Act, 1956 ;

And

In the matter of Vishnu Vijay Packagers Ltd. (In Provisional Liquidator)

Hasmukh Seth & Ors. ....Applicants
V/s
The Official Liquidator
Vishnu Vinay Packagers Ltd.
(In Provisional Liquidation) ....Respondent

Mr.M.P.S. Rao with Mr.Jaideep Mitra i/b Deven Dwarkadas & Partners for the Applicants.

Mr.S. Shetye with Mr.Rashmi V. Shah i/b Bodhanwala & Co. for the Respondent.

CORAM : S.J. VAZIFDAR, J.
DATED : 17TH FEBRUARY, 2006.

P.C. :

1. This Company Application has been taken out by some of the shareholders of the company that pending the scheme of compromise and arrangement between the company and its secured creditors, the effect and operation of the appointment of the Provisional

Liquidator by an order of this Court dated 27.4.2001 be stayed. The Applicants have also sought an injunction restraining the Provisional Liquidator from taking further steps pending execution of the scheme and for a stay of all civil and criminal proceedings against the Company and its Directors.

2. Mr.Rao, the learned counsel appearing on behalf of the Applicants fairly invited my attention to a judgment of the learned single Judge of this Court in - *Prakash Hassaram Mahtani, Ex-Director of Nielcon Ltd. v. Official Liquidator of Nielcon Ltd. & anr. 2004(5) Bom. C.R. 646*. The effect of granting the orders is to stay the decree obtained by the Petitioner from Debt Recovery Tribunal. The decree is still in operation.

3. The criminal proceedings in any event cannot be stayed in an application under Section 391(6) of the Companies Act. The remaining prayers are not maintainable in view of the aforesaid judgment.

4. In this view of the matter, I have not considered the merits of the case.

5. In the circumstances, the Company Application

is therefore dismissed.